



## *Headquarters Policy Flash*

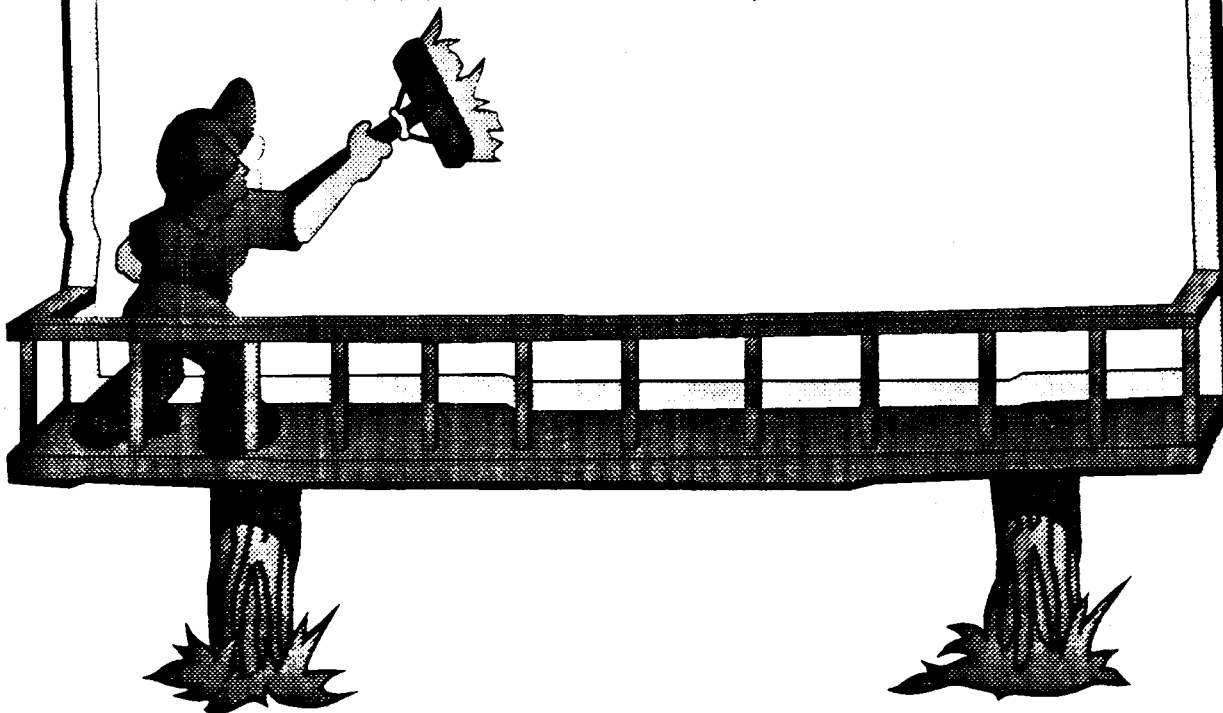
**Flash #99-01**

**DATE:** January 20, 1999  
**TO:** Distribution  
**FROM:** Office of Procurement and Assistance Policy (MA-51)  
Office of Procurement and Assistance Management

**SUBJECT:** Federal Acquisition Circular (FAC) 97-10

**SUMMARY:** This Flash provides a summary of the 10 items included in FAC 97-10, published in the Federal Register on December 18, 1998. Effective dates of the items in the FAC are as follows:

Item 8	December 18, 1998
Items 1 and 10	January 4, 1999
Items 2, 3, 4, 5, 6, 7 and 9	February 16, 1999



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The following 10 items are included in FAC 97-10:

### 1. Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program

This interim rule amends FAR Parts 5, 6, 7, 8, 12, 13, 14, 15, 19, 26, 52, and 53 to implement the Small Business Administration Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program. The purpose of the program is to provide Federal contracting assistance for qualified small business concerns located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in these areas. The program provides for set-asides, sole source awards, and price evaluation preferences for HUBZone small business concerns and establishes goals for awards to such concerns. (See Headquarters Policy Flash #16, dated December 29, 1998)

### 2. Limits for Indefinite-Quantity Contracts

This final rule amends FAR 16.504(a) to clarify that maximum and minimum limits for indefinite-quantity contracts may be expressed as a number of units or dollar value.

### 3. Office of Federal Contract Compliance Programs National Pre-Award Registry

This final rule amends FAR part 22 and related clauses at part 52 to:

- inform the procurement community of the availability of the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) National Pre-Award Registry (Registry), accessible through the Internet, that contains contractor establishments who have received a preaward clearance within the preceding 24 months, and the option to use the information in the Registry in lieu of submitting a written request for a preaward clearance; and

- implement revised Department of Labor (DoL) regulations pertaining to equal employment opportunity and affirmative action requirements for Federal contractors and subcontractors, including an increase in the dollar threshold for obtaining preaward clearances (to \$10,000,000) and an extension of the clearance validity period (to 24 months).

*Please note: On November 17, 1997, Richard Hopf distributed to Procurement Directors a memorandum forwarding a class deviation that reflected the increased dollar threshold and the extended validity period for these preaward consents. The class deviation was to remain in effect until changes to the FAR had been finalized. FAC 97-10 incorporates those changes. Therefore, the class deviation is no longer necessary and is canceled.*

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### **4. Limitation on Allowability of Compensation for Certain Contractor Personnel**

The interim rule published as Item XIII of FAC 97-04 is converted to a final rule with minor clarifying amendments at FAR 31.205-6(p)(2). The rule implements Section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 808 limits allowable compensation costs for senior executives of contractors to the benchmark year by the Administrator, Office of Federal Procurement Policy (OFPP). The benchmark compensation amount is \$340,650 for contractor fiscal year 1998, and subsequent contractor fiscal years, unless and until revised by OFPP.

### **5. Contractor Purchasing System Review Exclusions**

This final rule amends FAR 44.302 and 44.303 to exclude competitively awarded firm-fixed-price and competitively awarded fixed-price contracts with economic price adjustment, and sales of commercial items pursuant to FAR part 12, from the dollar amount used to determine if a contractor's level of sales to the Government warrants the conduct of a CPSR; and to exclude subcontracts awarded by a contractor exclusively in support of Government contracts that are competitively awarded firm-fixed-price, competitively awarded fixed-price with economic price adjustment, or awarded for commercial items pursuant to FAR part 12, from evaluation during a CPSR.

### **6. Contract Quality Requirements**

This final rule amends FAR 46.202-4, 46.311, and 52.246-11 to replace references to Government specifications with references to commercial quality standards as examples of higher-level contract quality requirements; to require the contracting officer to indicate in the solicitation which higher-level quality standards will satisfy the Government's requirement; and, if more than one standard is listed in the solicitation, to require the offeror to indicate its selection by checking a block.

### **7. Mandatory Government Source Inspection**

This final rule amends FAR 46.402 to facilitate the elimination of unnecessary requirements for Government contract quality assurance at source. This rule deletes the mandatory requirements for Government contract quality assurance at source on all contracts that include a higher-level contract quality requirement, and for supplies requiring inspection that are destined for overseas shipment.

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**8. No-Cost Value Engineering Change Proposals**

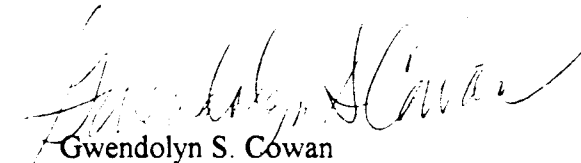
The interim rule published as Item X of FAC 97-05 is converted to a final rule without change. The rule revises FAR 48.104-3 to clarify that no-cost value engineering change proposals (VECPs) may be used when, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government.

**9. Evidence of Shipment in Electronic Data Interchange Transactions**

This final rule revises the clause at FAR 52.247-48 to facilitate the use of electronic data interchange (EDI) transactions and to streamline the payment process when supplies are purchased on a free on board (f.o.b.) destination basis with inspection and acceptance at origin.

**10. Technical Amendments**

Amendments are being made at FAR 1.106, 19.102, 19.502-5, 32.908, 37.602-3, 42.203, 52.212-5, 52.219-9, 52.222-37, 53.228 and 53.301 in order to update references and make editorial changes.

  
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